

Doug Ecks, State Bar No. 276583
LAW OFFICE OF DOUG ECKS
124 E Olive Ave
Burbank Ca, 91502
Telephone: (714) 290 1103
theecksfactordefense@gmail.com

Attorney for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

ADRIAN RISKIN,

Petitioner,

vs.

Los Angeles City Council,

Respondent.

) Case No.

) VERIFIED PETITION FOR WRIT OF
) MANDATE DIRECTED TO LOS ANGELES
) COUNCIL DISTRICT 14 ORDERING
) COMPLIANCE WITH CALIFORNIA
) PUBLIC RECORDS ACT AND FOR
) DECLARATORY AND INJUNCTIVE
) RELIEF; EXHIBITS A-B

) [Gov't Code § 6250 *et seq.*;
) Code of Civ. Pro. § 1060]

Under Code of Civil Procedure §§ 1085 *et seq.* and the California Public Records Act, Government Code §§ 6250 *et seq.*, ("CPRA"), petitioner Adrian Riskin ("Petitioner") petitions this Court for a writ of mandate directed to respondent Los Angeles City Council ("Respondent"), commanding Respondent to comply with the CPRA, and for declaratory and equitable relief. By this verified Petition, Petitioner alleges:

JURISDICTION

1. This Court has jurisdiction over this Petition pursuant to Cal. Gov't Code §§ 6258 and 6259. Code of Civ. Pro. § 1060.

THE PARTIES

1. Petitioner Adrian Riskin is a concerned resident of Los Angeles, California. Petitioner has a PhD in mathematics and is a math professor. He also publishes a website, <http://michaelkohlhaas.org>, where he regularly disseminates information to the general public about the workings of the City's Business Improvement Districts, including information obtained through the California Public Records Act. As such, Petitioner is within the class of persons beneficially interested in Respondent's faithful performance of its legal duties under the CPRA.

2. Los Angeles City Council District 14 is one of the fifteen city council districts. It represents Northeastern and Northwestern parts of Los Angeles and the current representative on the city council is Jose Huizar. It is a part of the City Council of Los Angeles which governs the entire city. It is a government entity within the context of Cal. Gov't Code § 6250

OVERVIEW

1. In an effort to monitor the workings of Respondent, and disseminate his findings on his website, Petitioner has utilized the CPRA. The materials on Petitioner's website are available for free to the public. He has been quoted in the *Los Angeles Times*, his website linked to in various articles, and he has been contacted by documentary film makers, public interest attorneys, and students from Boalt Hall's Policy Advocacy Clinic who have utilized information on his website for their projects.

2. Petitioner, through the CPRA request at issue in this petition, seeks to understand the ways in which Respondent's staff are constructing policy as well as coordinating with the police and the city attorney in dealing with the homeless encampments in Los Angeles.

3. At the time petitioner requested communications homeless encampments have been an important and pressing issue for the City of Los Angeles and the welfare of its citizens.

4. The communications and coordination between the City Council District 14, the city attorney and the LAPD falls square within the parameters of the CPRA. “The Act was intended to safeguard the accountability of government to the public, and it makes public access to governmental records a fundamental right of citizenship. (*Rogers v. Superior Court*, 9 Cal. App. 4th at 476 quoted by *Wilson v. Superior Court* 51 Cal.App.4th 1136, 1141 (1996).

5. Respondent only partially complied with the request. As seen in the attached emails between Petitioner and the staff member for respondent Isaih Calvin, Respondent claimed Attorney client privilege regarding all documents not provided.

6. Petitioner requested clarification and for the missing emails to be provided with redactions where necessary but no clarification or further documents were provided.

7. Petitioner believes that given the recipients and topics of these missing emails Attorney client privilege either doesn't apply or is being applied here in an overbroad fashion.

8. Notwithstanding the public's strong interest in these issues, and despite the need for openness from governmental institutions. Respondent has disregarded its legal obligations and restricted public access to information. Petitioner seeks immediate production of withheld records and challenges all of Respondent's claimed exemptions.

BACKGROUND OF CPRA REQUESTS

5/1/19 request

9. On Dec 30, 2018, Petitioner sent a CPRA request to a the city councilor Jose Huizar and staff member for City Council District 14 Paul Habib via email seeking:

1 “all emails between joella.hopkins@lacity.org or ari.simon@lacity.org and at least
2 one of 34490@lapd.online or 32511@lapd.online or gita.oneill@lacity.org or
3 kurt.knecht@lacity.org.2019.
4

5 A true and correct copy of Petitioner’s Dec 30, 2018 email is attached as **Exhibit A.**

6 10. Respondent’s staff member Isaiah Calvin responded by email on Jan 18, 2019
7 saying they expected the documents would be provided by Mar 1 2019. **Exhibit B.**

8 11. Petitioner followed up with an email on Mar 11, 2019 inquiring into the status of
9 the CPRA request. **Exhibit C**
10

11 12. On Mar 11, 2019 Isaiah Calvin responded by email saying the revised date for
12 providing the documents would be Mar 22 2019. **Exhibit D.**

13 13. On Mar 22, 2019 Isaiah Calvin sent an email stating 62 pages of emails were
14 available for Petitioner to copy. **Exhibit E**
15

16 14. Petitioner sent an email on Mar 26, 2019 objecting to the missing pages and the
17 gaps in the email chains provided, stating that the claim of Attorney Client privilege didn’t seem
18 applicable or sufficient to justify the missing pages and gaps. **Exhibit E**

19 15. In a follow up email Petitioner asked if Respondent would respond to his
20 concerns. **Exhibit E**
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22 16. On April 3 2019 Isaiah Calvin stated in an email that after consultation with the
23 city attorney all responsive documents had been provided and that the CPRA request had been
24 fulfilled. . **Exhibit F**
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26 17. As Petitioner was unable to negotiate a solution to the dispute over pages and
27 emails not provided he brings this petition.
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THE CALIFORNIA PUBLIC RECORDS ACT

18. Under the CPRA, all records that are prepared, owned, used, or retained by any public agency, and that are not subject to the CPRA's statutory exemptions to disclosure, must be made publicly available for inspection and copying upon request. Gov't Code § 6253.

19. Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or receive a copy of any public record." Gov't Code § 6258.

20. Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera (if permitted by the Evidence Code), papers filed by the parties, and any oral argument and additional evidence as the court may allow. *Id.* § 6259(a).

21. If the Court finds that the failure to disclose is not justified, it shall order the public official to make the record public. *Id.* § 6259(b).

22. To ensure that access to the public's information is not delayed or obstructed, the CPRA requires that "[t]he times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time." *Id.* § 6258.

23. There is no lawful or proper reason for Respondent's dilatory tactics and refusal to provide the records, materials and information Petitioner has requested. Respondent's delay

1 and wrongful refusal to provide the requested records, violates the CPRA. This Court has
2 jurisdiction to order the requested records disclosed at the earliest possible time. Furthermore,
3 Petitioner is entitled to a mandatory award of attorneys' fees and costs incurred in bringing this
4 Petition. *Id.* § 6259.

5
6 **FIRST CAUSE OF ACTION**
7 **Public Records Act, Gov't Code § 6250 *et seq.***

8 24. Petitioner alleges on information and belief that Respondent will continue to
9 refuse to permit members of the public, including himself, to inspect or obtain copies of the
10 requested public records in violation of the CPRA.

11 25. Petitioner alleges on information and belief that the information he seeks from
12 Respondent is maintained in Los Angeles County. The requested records are public records not
13 exempted from disclosure.
14

15 26. Based on information set forth in this Petition, Petitioner believes, and therefore
16 alleges, that Respondent's failure to produce and/or allow the inspection of records responsive to
17 his requests resulted from an intentional failure to expend good-faith "reasonable effort," to
18 comply with its statutory obligations in violation of the CPRA § 6254(b), which provides in
19 pertinent part that, [e]xcept with respect to public records exempt from disclosure by express
20 provisions of law, each state or local agency, upon a request for a copy of records that reasonably
21 describes an identifiable record or records, shall make the records *promptly* available to any
22 person[.]" (Emphasis added).
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25 **SECOND CAUSE OF ACTION**
26 **California Constitution, Art. I § 3 subd. (b)(2)**

27 25. The California Constitution recognizes that the "people have the right of access
28 to information concerning the conduct of the people's business, and therefore, the meetings of

1 public bodies and the writings of public officials and agencies shall be open to public scrutiny.”
2 Cal. Const., Art. I § 3(b)(1). This right is self-executing as the provisions of the California
3 Constitution are mandatory and prohibitory. Cal. Const., Art. I § 26.
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5 The California Constitution, therefore, directs the courts to broadly construe statutes
6 that grant public access to government information and to narrowly construe statutes
7 that limit such access. Cal. Const., Art. I § 3(b)(2).
8

9 26. A clear controversy exists between the parties regarding Petitioner’s right of
10 access to Respondent’s public records. Petitioner has and will continue to seek public records
11 from Respondent as is his right under the CPRA and the California Constitution. Respondent
12 has engaged in a pattern and practice of frustrating Petitioner’s right of prompt access to public
13 records.
14

15 27. Without action by this Court, Respondent will continue to frustrate Petitioner’s
16 constitutional and statutory rights and he will suffer irreparable injury. Petitioner seeks
17 injunctive and declaratory relief to protect the future exercise of his right of access to public
18 records.
19

20 **REQUEST FOR RELIEF**

21 28. Government Code Sections 6259(a) and 6259(b) authorize the Court to compel
22 Respondent to release the requested documents.
23

24 THEREFORE, Petitioner respectfully requests that:

25 29. This Court issue a peremptory writ of mandate directing Respondent to
26 immediately conduct a diligent and comprehensive search for the requested
27 records, and to thereafter *promptly* provide Petitioner the requested records or, in
28

1 the alternative, an order to show cause why these public records should not be
2 ordered disclosed;

3 30. The Court set “times for responsive pleadings and for hearings in these
4 proceedings... with the object of securing a decision as to these matters at the
5 earliest possible time,” as provided in Government Code Section 6258;
6

7 31. The Court enter an order declaring that Respondent has violated the CPRA by its
8 refusal to release the public records sought by Petitioner’s requests, and by its
9 failure to promptly respond to, and assist with, Petitioner’s requests;
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11 32. The Court enter an order declaring that for all future CPRA requests from
12 Petitioner to Respondent, Respondent shall produce all responsive documents,
13 subject to properly claimed exemptions, within 30 days, absent a showing of
14 extraordinary hardship;
15

16 33. The Court enter an order awarding Petitioner his reasonable attorney’s fees and
17 costs incurred in bringing this action, as provided in Government Code Section
18 6258, Code of Civil Procedure Section 1021.5; and California’s private attorney
19 general doctrine,
20

21 34. The Court award such further relief as is just and proper.

22 DATED: Sept 7 2019
23

24 Respectfully Submitted,

25 LAW OFFICE OF DOUG ECKS
26 Attorney for Petitioner
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Doug Ecks, Esq.

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1 **VERIFICATION**

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3 I, Adrian Riskin, declare:

- 4 1. I am a resident of in Los Angeles, California.
- 5 2. I have read the Verified Petition for Writ of Mandate Directed to the City Council of Los
- 6 Angeles Ordering Compliance with California Public Records Act and for Declaratory
- 7 and Injunctive Relief; Exhibits A to F. The facts stated in the Petition are either true and
- 8 correct of my own personal knowledge, or I am informed and believe that such facts are
- 9 true and correct, and on that basis I allege them to be true and correct.
- 10

11 This verification was executed on Aug 10, 2019, in Los Angeles, California. I declare

12 under penalty of perjury that the foregoing is true and correct.

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16 ADRIAN RISKIN

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 124 E Olive Ave, Burbank Ca, 91502.

On the date set out below, I served the foregoing document described as Verified Petition for Writ of Mandate Directed to the City Council District Ordering Compliance with California Public Records Act and for Declaratory and Injunctive Relief; Exhibits A to B. on the following interested parties via US Mail:

Agent of Service
Los Angeles City Council
City Hall
200 N Spring St
LA CA 90012

Executed on Sept 8, 2019 at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States of America and the State of California that the above is true and correct.

Doug Ecks, Esq

Exhibit A

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Exhibit B

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Exhibit C

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Exhibit D

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Exhibit E

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Exhibit F

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